

Exhibit 33



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Transcript of Christopher Ambrose

Date: July 7, 2022

Case: XR Communications, LLC -v- D-Link Systems, Inc., et al.

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Christopher Ambrose
Conducted on July 7, 2022

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA LOS ANGELES DIVISION -----X XR COMMUNICATIONS LLC d/b/a : VIVATO TECHNOLOGIES, : Plaintiffs, : v. :Civil Action No: :8:17-CV-00596 D-LINK SYSTEMS, INC., : Defendants. : -----X DEPOSITION OF CHRISTOPHER AMBROSE APPEARING REMOTELY FROM BEND, OREGON THURSDAY, JULY 7, 2022 12:00 P.M. Job No.: 455085 Pages 1 - 84 Reported by: Adrienne Mignano, RPR	3	A P P E A R A N C E S ON BEHALF OF PLAINTIFFS: PHILIP X. WANG, ESQUIRE RUSS AUGUST & KABAT 12424 Wilshire Boulevard 12th Floor Los Angeles, California 90025 310.826.7474 ON BEHALF OF DEFENDANT - ARUBA NETWORKS: ROBERT T. HASLAM, ESQUIRE KEE YOUNG LEE, ESQUIRE COVINGTON & BURLING LLP 3000 El Camino Real 5 Palo Alto Square - 10th Floor Palo Alto, California 94306 650.632.4700
2	Deposition of CHRISTOPHER AMBROSE, held via Zoom videoconferencing, pursuant to Notice, before Adrienne M. Mignano, a Notary Public and Registered Professional Reporter in and for the State of New York.	4	A P P E A R A N C E S (Continued) ON BEHALF OF DEFENDANT - NETGEAR & FALCON ALEXANDRA LANE, ESQUIRE DUANE MORRIS LLP 1540 Broadway New York, New York 10036 212.471.4772 ALSO PRESENT: Drew Halton - Videographer Malcolm Cooke - Remote Technician

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<p>61</p> <p>1 that there was a gentleman named Hal Turner, and 2 that -- also another gentleman named Gary 3 Rogers. And I was not privy to their 4 communications, but my recollection is that 5 there was a dispute among them regarding Catcher 6 Holdings' willingness to proceed with the sale. 7 Q Do you know if Mr. Turner or 8 Mr. Rogers were installed as officers of Catcher 9 Holdings after Mr. Haycox was terminated by 10 Aequitas? 11 A I'm sorry, can you rephrase that 12 again? 13 Q Did Aequitas, after Mr. Haycox was 14 terminated, play any role in installing 15 Mr. Turner or Mr. Rogers as officers of Catcher 16 Holdings? 17 A I don't recall that. 18 Q Do you know where Mr. Turner and 19 Mr. Rogers had been employment-wise prior to 20 being installed at Catcher Holdings sometime in 21 March 2008? 22 A I don't. My recollection is that 23 they had some former relationship with Gary 24 Haycox, but I may be wrong on that. 25 MR. HASLAM: Okay. I have no further</p>	<p>63</p> <p>1 A Correct. 2 Q And have you ever filed papers as an 3 attorney before the PTO? 4 A The only papers that may have been 5 filed would have been assignments as part of an 6 overall purchase, but nothing regarding 7 prosecution of a patent. 8 Q And do you know if you would even 9 have the ability to file, for example, an office 10 action in patent prosecution? 11 A I don't. 12 Q You do not have that ability? 13 A I don't know if I have that ability 14 or not. 15 Q Do you have any knowledge or 16 expertise about patent prosecution procedure? 17 A Very little. 18 Q Earlier, Mr. Haslam asked you about a 19 Notice of Abandonment. Do you recall that? 20 A He referenced a few of them. I do 21 recall that testimony. 22 Q And was it your testimony that 23 because it was so long ago you don't recall 24 receiving -- that you don't actually recall 25 actually receiving a Notice of Abandonment</p>
<p>62</p> <p>1 questions. Thank you very much for your time. 2 THE WITNESS: Thank you. 3 MR. WANG: I have a few questions. 4 Do you need a break, Mr. Ambrose, or are you 5 fine to continue? 6 THE WITNESS: I'm fine to continue. 7 Thank you. 8 MR. WANG: Thank you. I promise to 9 be brief. Okay, so give me one second to turn 10 my light back on. 11 EXAMINATION BY COUNSEL FOR PLAINTIFF 12 BY MR. WANG: 13 Q Mr. Ambrose, I believe you testified 14 that you are not a patent lawyer; is that 15 correct? 16 A That is correct, that I am not a 17 patent lawyer in the sense that I have dealings 18 with the Patent and Trademark Office. I have 19 worked with the purchase and sale of patents. 20 Q But you wouldn't characterize 21 yourself as a patent prosecution attorney, 22 correct? 23 A Correct. 24 Q You don't have a Patent and Trademark 25 Office registration number, correct?</p>	<p>64</p> <p>1 around that time, in 2008, for example? 2 A I went through my files to see what 3 Notices of Abandonment had been received by my 4 office, and the only Notice of Abandonment I was 5 able to locate was the one that was attached to 6 the letter from Mr. Brooks November 6th of 2008. 7 I don't have a record of receiving the Notice of 8 Abandonment directly from the USPTO, nor do I 9 have any recollection of, nor could I locate any 10 Notices of Abandonment for any other patents. 11 Q And this process of going through 12 your files, when did that occur? 13 A Yesterday. 14 Q And I believe you testified that you 15 had just located that one letter with one Notice 16 of Abandonment included, correct? 17 A Correct. 18 Q And when -- earlier, when you were 19 testifying in response to Mr. Haslam's 20 questions, you testified about certain events in 21 connection with this Notice of Abandonment. Is 22 it fair that they are not based on your 23 recollection, but, rather, based on you finding 24 this correspondence yesterday and what you think 25 likely occurred?</p>

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<p>65</p> <p>1 MR. HASLAM: Objection. Ambiguous. 2 Unclear and uncertain as to what testimony 3 you're talking about. 4 Q Mr. Ambrose, I'm trying to reconcile 5 your testimony about not recalling actually 6 receiving Notice of Abandonments, and given how 7 long ago this was that -- I just want to 8 understand if your testimony is based on 9 recollections or based on finding this letter 10 when going through your files? 11 MR. HASLAM: Same objection. 12 A I have no independent recollection of 13 seeing any Notices of Abandonment. I do recall, 14 very generally, the concept of abandonment 15 because some of the patents had already been 16 abandoned by, I believe, the time of the loan in 17 December of 2007. And so in an attempt to 18 provide full disclosure to Aequitas at that 19 point in time, there would have been a summary 20 provided to me -- I can't recall if it would 21 have been by Mr. Haycox or Mr. Brooks -- 22 directly regarding the status of various 23 patents, so a long-winded way of saying my 24 confusion simply is that I recall, generally, 25 the concept of abandonment, but I don't recall</p>	<p>67</p> <p>1 Q You also testified about a 2 conversation with Mr. Haycox, possibly, about 3 the abandonment issue, correct? 4 A Yes. My hesitancy to go much further 5 than that is that I have not received word from 6 Mr. Haycox that the attorney-client privilege 7 has been waived, so I'm not sure I can go in any 8 detail. I'm happy to discuss it, but I don't 9 think I can go much more than that. 10 Q Okay. And I want to understand, do 11 you have recollection of that, of that 12 conversation, or is this something that you 13 think may have happened? 14 A I do not have a recollection of a 15 specific conversation. My general recollection 16 is that certain, by the exhibits, identifying 17 what patents were being assigned and what was 18 part of the patent portfolio that -- my general 19 recollection is that we wanted to make sure that 20 we recovered and that I was not a patent 21 attorney, I was not prosecuting patents, and 22 that if there was any value to the pending 23 patents or that -- the abandoned patents, that 24 they be taken care of, but I -- that's my 25 general overall recollection, but I can't recall</p>
<p>66</p> <p>1 when it occurred. 2 Q Okay. You also testified about a 3 notation in your files about a conversation with 4 Mr. Brooks after receiving his letter, or around 5 that time, correct? 6 A Correct. There was a time entry on 7 November 20th of 2008 of a conversation with 8 Mr. Brooks, but I don't have any notes regarding 9 what was discussed. 10 Q And is that all the time entry says, 11 "Conversation with Mr. Brooks"? 12 A In summary, yes. It is one sentence 13 along the lines -- I can't say verbatim what it 14 is, but it was, Conversation with Jay Brooks, or 15 Mr. Brooks about patents. Something like that. 16 If you would like to take a break, I -- again, I 17 would be happy to get the exact verbiage, but it 18 does not go into detail of the conversation. 19 Q Okay. Does it go into further detail 20 beyond "conversation regarding patents"? 21 A No. 22 Q And is it fair to say that you have 23 no recollection, sitting here, about that 24 conversation or what you discussed? 25 A That's correct.</p>	<p>68</p> <p>1 specific -- a specific conversation. 2 Q And, Mr. Ambrose, what you just 3 testified to, is it based on your general 4 recollection or any sort of documentary records? 5 A My general recollection. 6 Q And you don't know the time frame of 7 the general topics of the conversations that you 8 may be referring to, right? 9 A It would have been 2007, 2008. I 10 wish I could narrow it down more for you, but I 11 can't. 12 Q Around that time, Mr. Ambrose, would 13 you say that Mr. Haycox was your client? 14 A Yes. Mr. Haycox was a shareholder or 15 member or officer of the Vivato entities we have 16 been discussing, so yes. 17 Q More accurately, would the Vivato 18 entities we have been discussing be your client 19 or who you were -- 20 A Correct, at least until -- at least 21 until the merger, at which point in time Catcher 22 Holdings took over Vivato Networks, Inc., and I 23 did not represent Catcher Holdings, so -- and I 24 do know that at that point in time Mr. Haycox 25 started having a dual role, and I believe at</p>

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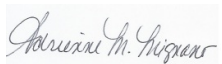
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<p>69</p> <p>1 that point in time my primary communications 2 with respect to Vivato Networks Holdings was 3 Mr. Rakos. 4 Q Okay. As far as you know, have any 5 of the Vivato entities around that time waived 6 any privilege, any attorney-client privilege? 7 A Not that I'm aware of. 8 Q Do you think Mr. Haycox himself would 9 have authority to waive that privilege? 10 A I don't know the answer to that. 11 Vivato Networks Holdings is a dissolved entity. 12 Vivato Networks, Inc. is a dissolved entity, or 13 merged into Catcher Holdings. So I don't know 14 the answer to that. 15 Q Mr. Ambrose, do you -- 16 A I guess my preference would be to 17 have both Mr. Haycox and Mr. Rakos -- well, I'm 18 not sure. I'm not sure, quite frankly, even 19 after all these years how it works with the 20 dissolved entity. 21 Q But in your testimony today, you 22 tried to respect the attorney-client privilege 23 for things, you know, covered by attorney-client 24 communications, correct? 25 A Yes.</p>	<p>71</p> <p>1 issues, Mr. Ambrose, so, like, can I ask, like, 2 what the chronology is? Is it something from 3 your file as an attorney? Or what are you 4 referring to? 5 MR. HASLAM: If it is just dates, 6 it's not privileged. 7 A I'm not sure that this would be 8 privileged, so I -- again, I don't want to waive 9 anything, but this was, I can tell you, a 10 chronology that I prepared for purposes of a 11 meeting with the investors of Vivato Networks 12 Holdings on May 19th of 2008, and because at 13 that point in time, obviously, things were going 14 sour with Aequitas and the loan and the 15 potential purchase -- or the potential sale of 16 the patent portfolio to Vevi Wireless. 17 Q Okay. Thank you, Mr. Ambrose. 18 I just wanted to reorient myself and 19 refer back to Mr. Haycox's termination around 20 March of 2008. And my question is: Do you have 21 any more information about why he was terminated 22 or how that arose? 23 A So in March, possibly early April of 24 2008, I know that there was an internal dispute 25 among the primary officers of Catcher Holdings</p>
<p>70</p> <p>1 Q And you didn't intend to waive that 2 privilege in your answers, correct? 3 A Correct. 4 Q Mr. Ambrose, you testified that 5 Mr. Haycox was terminated as CEO of -- in March 6 2008, correct? 7 A Of-- did you say of Catcher? 8 Q That was going to be my next 9 question, but was he the CEO of Catcher? 10 A I believe he became CEO of Catcher 11 after this merger, and I believe that he was CEO 12 until there was a dispute among the Catcher 13 Holdings individuals, and he was terminated as 14 CEO at that point in time. Again, my primary 15 contact was with Vivato -- well, was with 16 Mr. Rakos. In any event, that's my 17 recollection, yes. 18 Q And that termination occurred in 19 March 2008, correct? 20 A If it's okay with you, I did have a 21 chronology from that point in time that I'm 22 happy to take a look at to give you the precise 23 date, but I don't want to look at it without 24 your okay. 25 Q Okay. I am concerned about privilege</p>	<p>72</p> <p>1 regarding the operations of Catcher, and 2 particularly with respect to this potential sale 3 of the patent portfolio to the third party in 4 order to pay off -- at least, in part, to pay 5 off the Aequitas loan. 6 And at that point in time, then, 7 Mr. Haycox, I believe, was terminated as CEO. 8 And at approximately that time, I guess, in 9 general, or soon thereafter, Catcher Holdings 10 wrapped up its operations. So I don't know 11 exactly the date of dissolution, but I'm pretty 12 sure April, perhaps end of May of 2008, Catcher 13 Holdings was terminating everybody, wrapping up 14 its operations essentially, ceasing to do 15 business. 16 Q What is your personal relationship 17 with Mr. Haycox? Are you on friendly terms? 18 A I'd say we're on no terms. Not 19 unfriendly. I just -- since 2010, I think I've 20 communicated with him maybe once or twice, and I 21 can't even recall what that pertained to. We're 22 LinkedIn acquaintances, but beyond that, I am 23 not -- I would say we don't have any 24 relationship. 25 Q Okay. When were you first contacted</p>

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<p>81</p> <p>1 to step aside, that they needed somebody to 2 receive the communications, again, as a 3 placeholder pending for somebody else stepping 4 in. 5 And at that point in time, there 6 were -- they were in the midst of the potential 7 sale of the patent portfolio. There was the 8 merger. And at some point in time, my 9 expectation certainly was that be it Catcher or 10 whoever they sold the company to would hire 11 their own counsel, their own prosecuting patent 12 attorney, and there would be a transition that 13 way. 14 Q When you did receive the letter from 15 Mr. Brooks with the Notice of Abandonment and 16 the notice that he had withdrawn, did you pass 17 that on to Mr. Rakos? 18 A I don't recall whether there was a 19 discussion with Mr. Rakos or Mr. Haycox. The 20 letter was cc'd to Mr. Haycox as well. 21 Mr. Haycox and Mr. Rakos, I believe -- well, I 22 don't believe -- I know were in communications 23 at that point in time. I don't have a specific 24 recollection of where it went from -- where it 25 went from there.</p>	<p>83</p> <p>1 2 3 ACKNOWLEDGMENT OF DEPONENT 4 5 I, CHRISTOPHER AMBROSE, do hereby 6 acknowledge that I have read and examined the 7 foregoing testimony, and the same is a true, 8 correct and complete transcription of the 9 testimony given by me and any corrections appear 10 on the attached Errata sheet signed by me. 11 12 _____ 13 (Date) (Signature) 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>82</p> <p>1 MR. HASLAM: Okay. I have no further 2 questions. Thank you very much for your time. 3 THE WITNESS: Thank you. 4 MR. HASLAM: Is that it? 5 MR. WANG: Nothing further from me. 6 Thank you, Mr. Ambrose. 7 THE WITNESS: You're welcome. Thank 8 you, all. 9 THE VIDEOGRAPHER: Anything else 10 before we close, Attorney Haslam? 11 MR. HASLAM: Not from me. 12 THE VIDEOGRAPHER: The time is 2:30, 13 and this concludes today's deposition of 14 Christopher Ambrose. We're off the record. 15 16 17 18 19 20 21 22 23 24 25</p>	<p>84</p> <p>1 2 3 CERTIFICATE OF REPORTER - NOTARY PUBLIC 4 I, ADRIENNE MIGNANO, the officer before 5 whom the foregoing deposition was taken, do hereby 6 certify that the foregoing transcript is a true 7 and correct record of the testimony given; that 8 said testimony was taken by me and thereafter 9 reduced to typewriting under my direction; that 10 reading and signing was requested; and that I am 11 neither counsel for, related to, nor employed by 12 any of the parties to this case and have no 13 interest, financial or otherwise, in its outcome. 14 IN WITNESS WHEREOF, I have hereunto set 15 my hand and affixed my notarial seal this 17th day 16 of July, 2022. 17 My Commission Expires: June 2026. 18 19 20 21 22 23  24 25</p>

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